

Introduced by Senator Galgiani

February 19, 2014

An act to amend Section 11344.1 of, and to add Section 11344.15 to, the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 1091, as introduced, Galgiani. Administrative procedures: California Regulatory Notice Register: proposed rulemaking activities.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations. Existing law requires that an agency mail a notice of proposed action to specified entities at least 45 days prior to the hearing and close of the public comment period on the adoption, amendment, or repeal of a regulation. Existing law requires the office to provide for the publication of the California Regulatory Notice Register and to include specified information in the register, including notices of proposed action prepared by regulatory agencies.

This bill would require each state agency to submit a notice to the office for publication in the California Regulatory Notice Register of any meeting or hearing that occurs prior to the mailing or posting of the notice of proposed action, for which the agency posts on its Internet Web site a public notice of a meeting or hearing, as provided.

This bill would also require the office, before January 1, 2017, to make the California Regulatory Notice Register available in an electronically searchable Internet Web-based format, and to include the ability for interested parties to subscribe to an electronic mail notification subscription to the California Regulatory Notice Register or other

specific notices contained within the California Regulatory Notice Register.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11344.1 of the Government Code is
- 2 amended to read:
- 3 11344.1. The office shall do all of the following:
- 4 (a) Provide for the publication of the California Regulatory
- 5 Notice Register, which shall be an official publication of the State
- 6 of California and which shall contain the following:
- 7 (1) Notices of proposed action prepared by regulatory agencies,
- 8 subject to the notice requirements of this chapter, and which have
- 9 been approved by the office.
- 10 (2) A summary of all regulations filed with the Secretary of
- 11 State in the previous week.
- 12 (3) Summaries of all regulation decisions issued in the previous
- 13 week detailing the reasons for disapproval of a regulation, the
- 14 reasons for not filing an emergency regulation, and the reasons for
- 15 repealing an emergency regulation. The California Regulatory
- 16 Notice Register shall also include a quarterly index of regulation
- 17 decisions.
- 18 (4) Material that is required to be published under Sections
- 19 11349.5, 11349.7, and 11349.9.
- 20 (5) Determinations issued pursuant to Section 11340.5.
- 21 (6) *Materials and notices required to be published under Section*
- 22 *11344.15.*
- 23 (b) Establish the publication dates and manner and form in
- 24 which the California Regulatory Notice Register shall be prepared
- 25 and published and ensure that it is published and distributed in a
- 26 timely manner to the presiding officer and rules committee of each
- 27 house of the Legislature and to all subscribers.
- 28 (c) Post on its ~~website~~ *Internet Web site*, on a weekly basis:
- 29 (1) The California Regulatory Notice Register. Each issue of
- 30 the California Regulatory Notice Register on the office's ~~website~~
- 31 *Internet Web site* shall remain posted for a minimum of 18 months.
- 32 (2) One or more Internet links to assist the public to gain access
- 33 to the text of regulations proposed by state agencies.

1 (d) *Before January 1, 2017, the office shall make the California*
2 *Regulatory Notice Register available in an electronically*
3 *searchable Internet-Web based format, and shall include the ability*
4 *for interested parties to subscribe to an electronic mail notification*
5 *subscription to the California Regulatory Notice Register or other*
6 *specific notices contained within the California Regulatory Notice*
7 *Register.*

8 SEC. 2. Section 11344.15 is added to the Government Code,
9 to read:

10 11344.15. (a) Each state agency shall submit a notice to the
11 office for publication in the California Regulatory Notice Register
12 of proposed rulemaking activity. For purposes of this section,
13 “proposed rulemaking activity” means any meeting or hearing that
14 occurs prior to the mailing or posting of the notice required
15 pursuant to Sections 11346.4 and 11346.5, for which the agency
16 posts on its Internet Web site a public notice of a meeting or
17 hearing. The notice required pursuant to this section shall appear
18 in the California Regulatory Notice Register at least 15 days prior
19 to the meeting or hearing date.

20 (b) The notice required by subdivision (a) shall include all of
21 the following:

- 22 (1) The name of the state agency organizing the meeting.
23 (2) The date, time, place, location, and nature of the meeting.
24 (3) A brief statement identifying each topic under consideration
25 or discussion.
26 (4) An Internet Web site address for the public meeting notice.
27 (5) An Internet Web site address to any other information
28 prepared in connection with the meeting.

29 (c) Proposed rulemaking activity subject to the notice
30 requirement of subdivision (a) shall include the following:

- 31 (1) Informational hearings.
32 (2) Workshops.
33 (3) Scoping hearings.
34 (4) Preliminary meetings.
35 (5) Public and stakeholder outreach meetings.

36 (d) Failure to publish proposed rulemaking activity shall not
37 invalidate an action taken by a state agency pursuant to Section
38 11346.4 or 11346.5 if upon the agency’s discovery or notification
39 of failure to publish the agency submits the required notice to the
40 office for publication in the California Regulatory Notice Register

1 that notifies the public of the publication error. If an agency is
2 required to republish a notice pursuant to this subdivision, the
3 agency shall permit public comments related to the unnoticed
4 meeting to be submitted for an additional 15 days, once the agency
5 has posted all relevant meeting materials, presentations, studies,
6 recordings, or minutes of the meeting to its Internet Web site. The
7 notice required by this subdivision shall include the requirements
8 specified in subdivision (b) and include an Internet Web site
9 address for transcript, recording, or minutes of the improperly
10 noticed meeting or hearing.

11 (e) An intentional failure of the public to delay notice to an
12 agency regarding a known publication oversight constitutes a
13 waiver of the right to object and shall not invalidate a state agency's
14 ability to enact a regulation if both of the following apply:

15 (1) The public comment period as prescribed in Section 11346.4
16 has been published in the California Regulatory Notice Register.

17 (2) The agency has made every reasonable attempt to comply
18 with the procedures set forth in subdivision (d) which would
19 remedy any publication oversight that may have occurred.

20 (f) Agencies shall not condition consideration of comments
21 received during the period described in Section 11346.4 on
22 attendance of proposed rulemaking activities as described in
23 subdivision (a), and shall consider all issues pertinent to the
24 regulation that may not have been raised during proposed
25 rulemaking activities.